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SENATE

REPORT
101-36

REAUTHORIZING THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

MAY 25, 1989.—Ordered to be printed

Filed under authority of the order of the Senate of May 18 (legislative day, January 3), 1989

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 999]

The Committee on Energy and Natural Resources to which was referred the Act (H.R. 999) to reauthorize the Advisory Council on Historic Preservation, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. On page 1, line 7, after the word "in", insert the word "each".
2. On page 1, line 8, strike the word "years" and insert the word "year".

PURPOSE OF THE MEASURE

The purpose of H.R. 999 is to reauthorize the Advisory Council on Historic Preservation.

BACKGROUND AND NEED

Established under the 1966 National Historic Preservation Act, the Advisory Council on Historic Preservation, an independent Federal agency, provides advice to the President and the Congress on historic preservation policy. The Advisory Council reviews and comments on both Federal and Federally-assisted activities that affect historic properties. It also provides a regulatory function for this Nation's historic preservation program.

The Advisory Council on Historic Preservation prepares special reports and studies, provides technical assistance and professional

S313-6

guidance on historic preservation, reviews and comments on proposed Federal policies and procedures. When Federal agencies and the respective state historic preservation offices disagree, the Advisory Council on Historic Preservation serves as a referee.

The authorization for the Advisory Council on Historic Preservation expires on September 30, 1989. H.R. 999 amends the National Historic Preservation Act to reauthorize the Advisory Council for 5 years through 1994 at the same level of annual appropriations ($2.5 million).

Legislative History

A hearing on H.R. 999 was held by the House Subcommittee on National Parks and Public Lands on March 7, 1989. The measure passed the House on April 11, 1989.

At the business meeting on Wednesday, May 17, 1989, the Senate Committee on Energy and Natural Resources ordered H.R. 999, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on Wednesday, May 17, 1989, by unanimous vote of a quorum present recommends that the Senate pass H.R. 999 if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth	
Mr. Conrad*	
Mr. Heflin	
Mr. Rockefeller	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici	
Mr. Wallop*	
Mr. Murkowski*	
Mr. Nickles	
Mr. Burns*	
Mr. Garn	
Mr. McConnell	

* Indicates voted by proxy.

Committee Amendment

During the consideration of H.R. 999, the Committee adopted an amendment to clarify that the $2.5 million is an annual authorization ceiling for each of the next 5 fiscal years. As passed the House,

the language could have been interpreted as only authorizing a total of $2.5 million over the 5-year period.

The Committee notes that archaeology is recognized as an integral part of historic preservation. Section 201(a)(9) of the National Historic Preservation Act states that the Advisory Council on Historic Preservation shall include "four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archaeology, and other appropriate disciplines." However, no archaeologist has been appointed to the current Council since it was formed in 1980. The Committee believes that the Council would benefit from the participation of an archaeologist. The Committee, therefore, encourages the President to appoint a qualified archaeologist to the Council at the earliest opportunity.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying our H.R. 999. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 999, as reported.

Executive Communications

On April 17, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture, Department of the Interior and the Office of Management and Budget on H.R. 999. These reports had not been received at the time the report on H.R. 999 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

The views of the Department of the Interior on this measure provided to the House Interior and Insular Affairs Committee are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 24, 1989.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 999, "To amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic property througout the Nation, and for other purposes:"

H.R. 999 would extend the funding authorization for the Advisory Council on Historic Preservation through fiscal year 1994. We support reauthorization of the Advisory Council.

The National Historic Preservation Act of 1966 was prompted by the increasing pace of destruction of historic sites, buildings, archeological resources, and other physical aspects of the Nation's cultural heritage. Much of this destruction was being caused by Federal or Federally aided projects, such as highways, dams, airports, and urban renewal. In working for a legislative remedy, some favored an approach that would categorically forbid projects harming historic properties. In the end, a wiser approach prevailed. The 1966 Act established not a prohibition, but a process—a process whereby Federal agencies would have to consider the effects of their undertakings on hsitoric properties and allow review of those undertakings by an objective party.

That party was and is the Advisory Council on Historic Preservation, established by the Act as a vital component of this protective process. The Council does not seek to force preservation in every instance, rather, it seeks to help agencies meet their legal responsibility to consider historic property values in their project planning and to see that such values are weighed in the overall calculation of the public interest.

Through the consultative procedure established by the Council's regulations, most adverse effects of most Federal undertakings are avoided or mitigated to the satisfaction of all interested parties.

The Department of the Interior and the Advisory Council have worked hand in had to make Federal agencies aware of the many ways in which historic preservation can be not only compatible with their missions but also a positive advantage carrying out their missions. Together, we have helped agencies to understand that the requirements of historic preservation law are not onerous and not unreasonable. One by one, agencies that initially had difficulty understanding how historic preservation could apply to them have come to be colleagues. The interagency composition of the Advisory Council has been an essential element in this transformation.

This among other reasons, is why we support reauthorization of the Advisory Council. If preservation decisions are not to be preordained in law but reached upon consideration of the merits of particular projects and affected properties, an independent arbiter is essential. The Council's record of fostering sound Federal decisionmaking in this regard is excellent. We urge that it be allowed to continue.

The Office of Management and Budget (OMB) has advised that the program covered by this legislative proposal is included in the residual freeze category of the President's FY 1990 budget plan. For the Advisory Council, this is $1,795,000, which reflects President Reagan's FY 1990 budget request. Final decisions concerning programs in this category are to be determined through negotiations between Congress and the Administration, and thus the current $1,795,000 may need to be revised to reflect the results of such negotiations.

OMB has further advised us that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely,

BECKY NORTON DUNLOP,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the Act, H.R. 999 as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman):

ACT OF OCTOBER 15, 1966 (80 STAT. 915) AS AMENDED (16 U.S.C. 470t)

* * * * * * *

SEC. 212. (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. [To carry out the provisions of this title, there is authorized to be appropriated not more than $2,500,000 for each of the fiscal years 1985 through 1989] *There are authorized to be appropriated not to exceed $2,500,000 in each fiscal year 1990 through 1994.*

(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resouces.

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